

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

KERRI COPPOCK AND JASON D.  
DUPCHAK, II,

Plaintiffs,

v.

DOUG’S CORNER, INC.,

Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 5:21-CV-00043-RWS

**ORDER**

Before the Court is the Report and Recommendation of the United States Magistrate Judge (Docket No. 75), which contains his findings, conclusions and recommendations for the disposition of Fourth-Party Defendant Nivel Parts & Manufacturing Co., LLC’s (“Nivel Parts & Manufacturing”) Motion to Dismiss Under Federal Rule of Civil Procedure 12(b)(6) (Docket No. 64). The Court hereby adopts the Report and Recommendation of the Magistrate Judge as the findings and conclusions of this Court. Plaintiffs filed the above-titled civil action against Defendant Doug’s Corner, Inc., alleging various claims for strict products liability, negligence and breach of implied warranties. Docket No. 1. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636. Defendant Nivel Parts & Manufacturing was ultimately named as a fourth-party defendant. Defendant Nivel Parts & Manufacturing thereafter filed the present motion to dismiss. Docket No. 64.

After reviewing the pleadings, the Magistrate Judge issued a Report entailing thirty pages of discussion and ultimately recommending that Defendant Nivel Parts & Manufacturing’s motion to dismiss (Docket No. 64) be denied. Docket No. 75. To date, no objections to the Report have

been filed. Any aggrieved party is, therefore, barred from *de novo* review by the District Court of the Magistrate Judge's findings, conclusions and recommendations; and, except upon grounds of plain error, Defendant is barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017).

The Court has reviewed the pleadings in this cause of action and the Report of the Magistrate Judge. Upon such review, the Court concludes that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (explaining that where no objections to a magistrate judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"), *cert. denied*, 492 U.S. 918 (1989). Accordingly, it is

**ORDERED** that the Report of the Magistrate Judge (Docket No. 75) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that Fourth-Party Defendant Nivel Parts & Manufacturing Co., LLC's Motion to Dismiss Under Federal Rule of Civil Procedure 12(b)(6) (Docket No. 64) is **DENIED**.

**So ORDERED and SIGNED this 21st day of September, 2022.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE